



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

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DENVER, COLORADO 80202-2466

Ref: 8EPR-EP

AUG 17 1999

Lyle Laverty
Regional Forester
Rocky Mountain Region
P.O. Box 25127
Lakewood, Colorado 80225

RE: Record of Decision (ROD) and Supplement to the
Final Environmental Impact Statement (FEIS)
Telluride Ski Area

Dear Mr. Laverty:

I am writing to express the Environmental Protection Agency's (EPA) concern over decisions in the referenced documents issued June 22, 1999, by the Grand Mesa, Uncompahgre, and Gunnison (GMUG) National Forest which authorized the Telluride Ski and Golf Company (Telski) to expand by 773 acres into the Prospect Creek Basin.

EPA appreciates efforts made by the Forest Service (FS) in this ROD to consider our comments on the Draft Supplement to the FEIS and to recognize the science that made up the basis for those comments. The final project design appears to make solid efforts to avoid impact to highly sensitive alpine tundra and talus within the project area. EPA still believes that expanding developed winter and summer recreation into Prospect Basin should be heavily considered given the unique character of that basin, its ecological and recreational value in its existing natural state, and given our objections to the stated purpose and need for this project. EPA still has remaining concerns on wetlands, additional or modified grading for ski trails, and indirect and cumulative impacts.

Wetland Concerns

Because of Telski's previous unauthorized wetland impacts and the Consent Decree entered in the Clean Water Act (CWA) judicial enforcement case, U.S. v. The Telluride Company, et. al (Civil Action No. 93-K-2181), as well as additional environmental studies that occurred in the basin, we sent specific recommendations and comments on the draft Supplement Final EIS (letter attached). We asked that GMUG consider this new information, and additional issues and comments in determining project compliance with the National Environmental Policy Act (NEPA) and relevant portions the CWA and Clean Air Act. Since that time, we have also met with representatives of the FS to discuss our concerns in detail. EPA continues to have serious concerns regarding how the FS has proceeded and responded to our concerns about adverse wetland impacts associated with the proposed project.



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Our primary remaining concern is the Forest's decision to defer all decisions related to Section 404 permitting matters to the Corps of Engineers (Corps) prior to and during construction of the ski area expansion. We would not have asked the FS to include the specific mitigation recommendations as conditions to the ROD if we believed that deferring to the Corps was sufficient protection for the aquatic resources. We continue to have concerns that the land management agency (USFS) overseeing the environmental compliance and construction of the ski area is deferring important aquatic resource mitigation conditions to be handled during subsequent permit processes.

For example, we recommended that a special condition be included in the ROD that requires field flagging and photographic documentation near wetlands with all ski area related activities described within 150 yards for an agency site review during the summer field season. The intention was to notify the applicant of our interest in a field evaluation of direct and indirect adverse impacts to wetlands, including adverse impacts to wetland hydrology from ski area activities on uplands. These discussions should include all parties involved. Inclusion of these types of specific mitigation measures and permit processing requirements in the Special Use Permit notifies the applicant, early in the process, of significant CWA Section 404 permit issues prior to the permit application. Notification in this form would likely result in less time delays for the applicant and better serve the intent of streamlining NEPA through concurrent permit review rather than consecutive review, as currently practiced by the Forest. As such, we have no other mechanism to relay these concerns until the project proponent applies to the Corps for a 404 permit. Only then would our comments be solicited. This may result in delays in permit processing. Additionally, there is no guarantee a 404 permit will be issued for the project.

Region VIII of the EPA believes there are many benefits to involving the FS throughout the NEPA process in full disclosure of direct, indirect, and cumulative impacts to aquatic ecosystems, as well as bringing avoidance, minimization, and mitigation requirements (i.e., Section 404 Clean Water Act requirements) to the applicant, early and consistently through the process; as federal agencies with a common interest in protecting the resources (see Wetland Protection Executive Order 11990). While recognizing that the FS did incorporate CWA objectives and alternatives analysis in the NEPA documents (resulting in reduced wetland impacts), relying on the Corps to be primarily responsible for enforcing and monitoring avoidance and mitigation requirements is problematic. We believe that the on-site presence of Forest Service hydrologists during construction and maintenance activities would preclude many inadvertent or unauthorized adverse impacts to aquatic resources, especially if the ROD had outlined specific mitigation measures for the field staff to monitor. Given the high profile and public scrutiny afforded the ski area expansions in Colorado, and the compliance history of the project proponent, we believe it would better serve the FS to include more specific mitigation measures and participate in the compliance of CWA permits. We believe that by deferring the responsibility to other agencies, more violations are likely to occur with potential additional time delays and stipulated penalties for Telski.



Further, we continue to be concerned that indirect adverse impacts to wetlands have not been adequately disclosed by the Forest Service. In a recent memorandum, our two agencies agreed that, where sensitive alpine tundra areas within San Miguel County are "disturbed in order to meet project objectives, mitigation based on best available science will be employed to reduce the impact to the maximum extent possible."¹ The areas of concern within the proposed project include such sensitive alpine areas. Therefore, EPA requests that the Forest Service require "avoidance" of wetland impacts, the "most protective management strategy" for this ecosystem as identified by our memorandum on this project.

Environmentally Sensitive Areas and Grading

Despite unilateral recognition that grading (earth moving) is among the most critical environmental concerns associated with this project, especially in ecologically sensitive areas, the ROD is very non-specific with respect to what grading is authorized. Neither the maps (Figures 1 and 2) nor the text of the ROD specify the amount or location of grading that is approved with this project. Given the amount and depth of discourse on the issue of soil disturbance in sensitive areas, and the level of agreement on the irreversible nature of disturbance in tundra and talus ecosystems, we are extremely disappointed with the lack of specificity in the ROD with respect to this issue. We would, however, like to recognize the substantial, and in some cases innovative, mitigation measures included in this ROD to protect alpine vegetation communities from disturbance associated with winter and summer recreation activities. As part of the mitigation package, we would still like the Forest Service to consider doing the glading and other timber clearing activities in sensitive areas such as wetlands only under frozen ground conditions. EPA feels strongly that the ROD be amended to include the location and amount of grading approved with this ROD, and especially the amount and location of grading in sensitive areas.

In our discussions with FS staff, we expressed concern, that on several other ski area projects in the Rocky Mountain Region, the amount of grading required to provide safe skiing and good skier flow was underestimated in the NEPA analysis, the result of which may be the ski area's subsequent request for additional grading several years in the future after the new runs are in service. These requests are usually granted by the FS under a categorical exclusion in which virtually no additional analysis is required. Given that all parties associated with this EIS have acknowledged the extreme sensitivity of alpine tundra and talus to any type of ground disturbance, we were particularly concerned that the Final Supplement EIS should include site-specific analysis of the location of runs and roads in order to accurately disclose the amount of necessary grading associated with the Telluride project. We were verbally assured by the FS Project Team Leader that the Telluride analysis was sufficiently site-specific to assure that additional grading, beyond that disclosed in the EIS, would not be required. We appreciate the Forest Service's recognition of the importance of doing detailed analysis in this area; however, we are very concerned that the ROD states that "the actual location of ski trails and other facilities may not occur precisely in the location shown on the Final EIS maps" (p. 19). This would seem

¹ Memo to Project File, Re: 4/7/99 Discussion of Environmental Sensitivity in the Alpine Ecosystems in San Miguel County, p.1.



to indicate that ski runs have *not* yet been specifically located, and that the amount and location of grading required for this project, as well as the amount of wetlands and other impacts, are indeed only estimates. EPA would likely express formal environmental objections under NEPA should Telluride request additional grading in sensitive areas within the project area.

Conditionally Approved Ski Trails

Both Figure 1. and Table 1. in the ROD indicate two ski trails on Bald Mountain that are “not authorized without sufficient need.” The ROD does not specify why the approval of these trails was conditioned, but it is likely due to the need for grading in sensitive areas. EPA certainly agrees that these two runs should not be developed without sufficient need; however, the ROD does not define the terms “sufficient need.” It is inappropriate to conditionally approve an aspect of a project without specifically defining the conditions. Any grading on or above sensitive environmental features such as alpine tundra or wetlands could result in irreversible environmental impacts. EPA recommends amending the Decision to quantitatively define “sufficient need” so that the public can fully understand the public benefit to be derived for a potentially irreversible environmental cost should these runs be approved.

Indirect and Cumulative Impacts

As stated on numerous occasions, EPA is concerned that the Prospect Basin Lift substantially increases the likelihood that the private property around Alta Lakes and Turkey Creek Mesa will be intensely developed. It is our understanding that the current FS effort to purchase private lands in the Alta Lakes area owned by Leucadia was unsuccessful. In fact, the approval of the Prospect Basin lift may make it less likely that the Forest Service will acquire the Alta Lakes parcel due to the dramatically increased property values caused by this approval. The ROD does, in fact, acknowledge the possibility of the project increasing development pressure on these areas (p. 11), but the Final Supplement EIS does not assess the potential impacts. Should the FS be unable to obtain the property around Alta Lakes, then the approval of this project would increase the likelihood of a land exchange proposal to re-emerge with the objective of increasing private holdings and road access in the Alta Lakes area. As stated in our comments on the Draft Supplement Final EIS (see Comment # 90w on p. C.105 in the FSEIS), specific development plans are not required in order to assess the potential for future resource impacts. We feel that the general type of development can be predicted based on development patterns in other areas with lift access to Telluride and at other regional ski areas. The ROD goes so far as to project the possibility of a ski connection across NFS lands with these properties (p. 11). In fact, there is an existing private property connection from Alta Lakes into the Ski Area Permit Boundary in Palmyra Bowl on which a lift could be developed without requiring USFS approval. EPA again recommends that a general analysis of potential cumulative resource impacts be disclosed prior to final project approval. Our concerns would, of course, be eliminated should the FS succeed in purchasing these parcels prior to final approval.



If you have any questions or concerns regarding these comments or recommendations, please contact Sarah Fowler at 303/312-6192 or Phil Strobel at 303/312/6704. We still have environmental concerns and would appreciate the opportunity to meet with you or your staff to discuss these concerns.

Sincerely,



Max H. Dodson
Assistant Regional Administrator
Office of Ecosystem Protection and Remediation

Attachment

cc: Deanne Zwright, USFS Region 2
Rhey Soloman, USFS
Robert Storch, USFS, GMUG
Elaine Suriano, Office of Federal Activities, EPA
Brooks Carter, COE



